

REMARKS

The Office Action mailed April 19, 2006 considered claims 1, 2, 4-10, 16-18, 20-25, 32 and 33. Claims 1, 2, 4, 5, 7-10, 16-18, 20-25, 32-33 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ward, et al. (US 6,756,997) hereinafter *Ward* in view of Marsh, et al (US 6,208,799) hereinafter *Marsh*. Claim 6 was rejected under 35 U.S.C. 103(a) as being unpatentable over *Ward* in further view of Vallone, et al. (US 6,642,939) hereinafter *Vallone*.¹

By this paper, claims 1, 5, 7, 8 and 22 have been amended, claims 4, 6, 10, 16-18, 20 and 21 have been cancelled such that claims, 1, 2, 5, 7, 8, 22-25 and 32-33 remain pending in the application.

The present application is directed to managing conflicting recording schedules for broadcast recordings. In particular, the claims of the present application allow a conflict in a schedule to persist such that the conflict can be automatically resolved by some subsequent event, without a user needing to specifically resolve the conflict or re-program one of the scheduled recordings. This is in direct contrast to what is disclosed by the art cited by the Examiner. For example, *Ward* states that "[t]he EPG will require that the viewer revise the record instructions to eliminate the conflict." Col. 12, lines 53-55. *Ward*, in an alternative embodiment states that "the EPG automatically 'decides' to override the 'regularly record' instruction and will record the 'one occurrence' program with no further intervention by the viewer." Col. 12, lines 61-65. *Ward* illustrates that the EPG allows the viewer to select a later occurrence of a conflicting program to resolve the conflict. Col. 13, lines 1-5.

¹ Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

With respect to *Marsh*, in Figure 3, *Marsh* shows that when a conflict exists (block 39) a user-alert message is sent to a TV screen (block 37). As described at col. 7, lines 30-34, this alert allows the user to cancel one of the overlapping programs. Similarly, Figure 6 illustrates that when a conflict exists (block 71) that a VCR-Record-Timer is cleared (block 74 and 75) and that a user alert message is sent (block 76). Col. 10, lines 20-34 further clarify that the VCR-record-timer is cleared, essentially canceling one of the conflicting programs.

While *Ward* does disclose "changes in program scheduling" (see col. 11, lines 50-51), these changes in scheduling are only detected to facilitate updates to programming instructions to allow programs that have been scheduled for recording to be recorded at the appropriate time, and not for resolving conflicts (see col. 11, lines 50-63). In particular, no previously conflicting program is automatically scheduled to be recorded as a result of the conflict being eliminated by the changing of recording times or addition of new tuners, rather, in the art cited by the Examiner, only non-conflicting, previously scheduled programs are recorded where their recording times are changed as a result of the "changes in program scheduling."

Vallone does not compensate for the deficiencies of *Ward*. *Vallone* is only cited to demonstrate the use of multiple tuners in a system.

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should it arise. Furthermore, to the extent that the Examiner has relied on any Official

Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine references with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 18th day of August, 2006.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. D. Nydegger", with a stylized flourish at the end.

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